

FILED

DEC 21 2005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLANDIN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SERGIO ALVAREZ,

Plaintiff,

v.

DWIGHT WINSLOW, et al.,

Defendants.

No. C 04-1198 SBA (pr)

**ORDER GRANTING REQUEST
TO PROCEED IFP ON APPEAL
AND DENYING MOTION FOR
TRANSCRIPTS AS
UNNECESSARY**

(Docket Nos. 59, 60)

This is a section 1983 prisoner civil rights action. The Court granted summary judgment for Defendants on September 30, 2005, and judgment was entered that day. On October 31, 2005, Plaintiff filed a Notice of Appeal.

On November 30, 2005, the Ninth Circuit Court of Appeal issued a Referral Notice and directed the Court to inform the Ninth Circuit if Plaintiff's appeal is frivolous or not taken in good faith.

On December 6, 2005, the Court issued a certificate that the appeal was taken in good faith.

Plaintiff has filed a motion to proceed in forma pauperis and to pay the filing fee in installments on appeal. This request is GRANTED because the Court has previously determined that the appeal was taken in good faith. See 28 U.S.C. § 1915(a)(3).

Plaintiff has also filed a "Motion for Transcripts" pursuant to Rule 10-3.1 of the Local Rules of the Ninth Circuit Court of Appeal. Because the Court granted Defendants' motion for summary judgment without a hearing, no oral proceedings transpired. Therefore, there are no transcripts available to order. Accordingly, the Court DENIES Plaintiff's Motion for Transcripts as unnecessary.


CONCLUSION

Plaintiff motion to proceed in forma pauperis and to pay the filing fee in installments on appeal (docket no. 59) is GRANTED. Plaintiff's Motion for Transcripts (docket no. 60) is DENIED as unnecessary.

This Order terminates Docket Nos. 59 and 60.

IT IS SO ORDERED.

DATED: December 14, 2005


SAUNDRA BROWN ARMSTRONG
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

Alvarez,

Plaintiff,

v.

Winslow et al,

Defendant.

Case Number: CV04-01198 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 21, 2005, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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Dated: December 21, 2005

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk